Polls to proceed even if one Aljunied candidate is dropped: Elections Dept

BY SUE-ANN CHIA

THE Elections Department yesterday said the election in Aljunied GRC will proceed as scheduled even if Mr James Gomez is dropped from the Workers’ Party’s (WP) slate.

Constitutional lawyers, however, say that as the law stands, no party can contest a five-man GRC with a four-man team.

Both the experts and the department agree on one thing: the outcome of such a contest can be challenged in the courts.

They were responding to suggestions by People’s Action Party (PAP) ministers that the WP withdraw Mr Gomez as a candidate because of his conduct at the Elections Department over his forms.

At a rally on Tuesday, Minister Mentor Lee Kuan Yew described Mr Gomez as a liar and a liability to the WP, before adding: “They are left with four candidates, the election goes on, the election is not cancelled.”

Mr George Yeo, the anchor minister for PAP’s Aljunied GRC team, also urged the WP to “do the right thing”, saying: “If, say, the PAP team in Aljunied, something has happened to one of us, the rest of us will still carry on. The election will continue. It will be a team of four versus a team of five, but it doesn’t matter.”

He repeated the call yesterday.

The PAP leaders’ comments set the legal fraternity abuzz with questions.

One, can a candidate be withdrawn after Nomination Day?

Two, can the election proceed with a four-man team contesting in a five-man GRC?

Three, will the election results be considered void in such a situation or subject to challenge?

The Elections Department, which is under the Prime Minister’s Office, yesterday issued a statement noting that the Parliamentary Elections Act (PEA) makes no mention about the effect of a withdrawal of a candidate on a GRC team between Nomination Day and Polling Day.

Hence, the Returning Officer has no authority to call off the election or declare the opposing team the winner in the event of such a situation.

“The poll for Aljunied GRC will have to proceed as scheduled,” said the department.

On whether a four-man team can contest a five-man GRC, the department said the PEA does not expressly confer power on the Returning Officer to restart the election.

But whether the outcome of the poll can be set aside on the basis that the election is not in accordance with the law will have to be decided by the courts, it added.

The legal experts interpret the law differently.

The lawyers interviewed refer to Section 22(2) of the PEA. It states that each group representation constituency (GRC) shall return the designated number of members to serve in Parliament for that constituency.

For Aljunied GRC, it is stipulated that it is a five-member constituency.

“That means you need to return five members, not four,” said Assistant Professor Eugene Tan, a law lecturer at Singapore Management University.

Constitutional law expert Thio Li-Ann added: “The fixing of the size of GRC teams is not a matter of discretion; it is a clear and fixed rule which is to be adhered to.”

Therefore, the WP’s nomination for its Aljunied GRC slate is “void” if the party withdraws a candidate during the campaign period and the President does not stipulate a revised group number for that constituency, said National University of Singapore law lecturer Yvonne Lee.

“Consequently, there is no lawful election, and a walkover in substance materialises,” she said.

Dr Thio, also an NUS law professor, referred to Section 32(1) of the PEA which states that a candidate can be withdrawn before noon on Nomination Day, but not afterwards.

“It seems self-explanatory that names cannot be withdrawn, and if the WP puts up a four-man team, this is an irregularity which can be judicially challenged,” she noted.

Who can mount a challenge? Under Sections 93 and 94, voters and candidates of the GRC can apply to the Supreme Court. They can apply, among other things, to declare the election void or that the return of the person elected was improper.

The reasons could include non-compliance of rules or a corrupt or illegal practice related to the polls. The application must be made within 21 days of the election.